

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

IN RE J.T., a Person Coming Under the
Juvenile Court Law.

H045204
(Santa Clara County
Super. Ct. No. 314JV40669A)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.T.,

Defendant and Appellant.

I. INTRODUCTION

The minor, J.T., appeals from a restitution order entered after he admitted committing forcible lewd conduct on a child under 14 (Pen. Code, § 288, subd. (b)(1)). (Welf. & Inst. Code, § 800, subd. (a).)¹ On appeal, the minor contends that the juvenile court erred in ordering that he pay \$22,500 in restitution for income loss suffered by the victim's parents. He argues that restitution may not be awarded for income lost due to the parents' depression over his conduct against their child, and that the evidence did not support a finding that his conduct was a substantial factor in the parents' loss of income.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

For reasons that we will explain, we will affirm the order.

II. BACKGROUND

A. Section 602 Petition

In May 2014, a petition under section 602 was filed against the minor, then age 17, alleging four counts of forcible lewd conduct on a child under 14 (Pen. Code, § 288, subd. (b)(1)). The minor admitted the allegations in count 1, and the remaining three counts were dismissed.

According to a police report, the five-year-old victim disclosed that there were four incidents involving the minor, who was a relative. The victim reported that in one of the incidents, the minor put his penis in her buttocks. The minor acknowledged to the police that he was involved in four incidents with the victim when she was three or four years old. The minor indicated that in three of the incidents, he looked at the minor's vagina until he had an erection. The minor reported that in the fourth incident, he removed the victim's pants and underwear. He reported that he "held his erect penis down and pointed toward the floor," and then he moved his penis up and down "between the two halves of her buttocks."

The juvenile court declared the minor a ward of the court, placed him on probation with various terms and conditions, and ordered him to serve 60 actual days on the community release program.

B. Restitution

The victim's parents subsequently sought restitution for therapy and for lost income. They contended that they were unable to work and maintain their business because of the emotional trauma they suffered after learning their daughter had been molested.

The minor objected to restitution for lost income on the grounds that (1) section 730.6 did not authorize restitution for lost income due to the parents being upset and unable to work, and (2) there was not adequate support for the request.

1. Contested restitution hearing

The contested restitution hearing was held over several days beginning in August 2016. The evidence presented at the hearing included the following.

The minor and the victim's mother are cousins. In 2012 and 2013, the minor's mother provided childcare for the victim and a sibling at the house where the minor lived.

In September 2013, the victim's mother discovered while talking to the victim, who was approximately four years old, that the victim had been molested. The victim's family confronted the minor's family, and the minor admitted what had happened.

The mother was initially shocked and couldn't believe that the minor had molested her daughter. The mother testified that the victim's father was also in shock and disbelief. After learning it was true, the mother was "devastated." She explained that the minor was "a family member" who she and the father were "very close to." Both the mother and father felt it was "the utmost betrayal of all" and "like a loss in somewhat of humanity."

Both the mother and father became depressed and had trouble sleeping. The mother testified that she "didn't want to go to work" and she "got really angry." She would sleep for a few hours and then wake up, "think about the problems," and then try to go back to sleep, waking up "really tired in the morning." The father also exhibited sadness. His drinking increased from occasionally at a party, to five times a week. The father, who was normally a talkative and outgoing person, didn't talk as much and wasn't his "happy self." The mother likewise "shut down."

The father became very angry. Prior to learning about the incident, he was "[m]ellow." Afterwards, he and the mother argued constantly. Their marriage started "falling apart" and they discussed divorce. The problems in the marriage had a "major" effect on the rest of the family, including the victim who thought it was her fault.

During this time, the family was operating a jewelry business. The business was conducted online through eBay and at a physical store. The mother had started the online

business on eBay in 2010. She testified that it took a lot of hard work to build up the online business to get people to know her and trust her. The mother explained that, because jewelry is an expensive item, a lot of people use other people's feedback to buy jewelry. It took two years for the mother to build up the necessary feedback.

The process for selling the jewelry online included the following steps. Multiple pictures were taken of the jewelry and Photoshop was used. A description was written for the item. Pricing was determined for the item so that the item would be competitive online. After the pictures were posted online, customers' questions about the item needed to be answered. Back-and-forth negotiations occurred, hopefully resulting in a sale. Before the item was mailed to the customer, it would be checked to make sure it was the correct size, stone, and metal, and that it met the business's jewelry standard. As the family's business developed, there were about 500 items available online. The whole process took three to four hours to list a single item, and approximately 10 hours after listing.

It took 60 to 80 hours per week to operate the online portion of the family's business. The online business was conducted by the victim's mother and father and a paid consultant. The consultant took the pictures, used Photoshop, and sometimes listed the items. This took approximately 25 to 30 hours per week. The mother and father also listed the items, as well as answered questions and made the final sales. This took approximately 35 to 50 hours per week, split equally between the mother and father. The mother testified that questions from customers could range from one to ten questions per customer in a span of one hour to a month.

After the victim's parents learned about the molestation in September 2013, the changes in the parents' mental health and behavior started to negatively affect their business in approximately November or December 2013. The victim's parents had discussed the molestation with the minor's parents, but the minor's parents "were in denial" and the victim's parents didn't see the problems "being resolved with the family

members.” The victim’s parents “started getting more depressed,” the victim’s mother “didn’t want to go to work,” and the father “started to drink more.” This caused a decrease in customer service and sales by the parents both in the store and online.

Customer service for the online business required a response to a customer inquiry on the eBay messaging board within an hour. In the mother’s experience, responding within an hour resulted in a “very high chance of closing the sale,” whereas responding within a day resulted in a 20 percent chance of closing and responding within three days meant no chance. She also explained that inquiries could arise even after an item is purchased, because customers had 14 days to return an item. The mother further testified: “[D]uring this time, Christmas especially is a very busy season. So really we need to be up to par with what we have to do with our store and running our online business to make sure that customers are satisfied. [¶] And when both of us, two out of three people are not mentally capable of doing that, that affected our business greatly.”

Before the victim’s mother learned about the molestation, she responded to customer queries within an hour about 90 percent of the time. By December 2013, however, she was responding to customer queries within an hour in only about 20 to 30 percent of the time. When asked why, the mother testified: “I was just depressed, I didn’t want to work. I was like[,] ‘What’s the whole point for[?]’ ” The mother sometimes “would stay home and just be with [her] kids.” The victim’s father, who also had responsibility for customer service, didn’t appear to care anymore, as he did not respond to any customer questions.

Prior to learning about the victim’s molestation, the mother and the father each worked about 55 to 60 hours per week between the online business and in the store. After the mother found out about the victim’s molestation, the mother averaged about 30 hours per week and the father averaged about 20 hours per week. Regarding the change in hours, the mother testified that sometimes she wouldn’t open the store, that she would stay home with her children, that she would just stay in bed, and that she would

“mope all day.” The mother testified that, whereas previously, the couple was “way more motivated for [the] business, . . . to make more income” to send their children to good schools, they subsequently “just tried to make enough to pay [their] bills every month” without striving as they had in the past.

eBay effectively shut down the online business in March 2014, after negative customer feedback. Customers on eBay can provide a score from one to five—one being the worst and five being the best—in four categories: (1) “Item As Described,” (2) “Communication,” (3) “Shipping Time,” and (4) “Shipping and Handling Charges.” A score of one or two, referred to as a “ding,” in any category is considered a low score. On a monthly basis, eBay evaluates a seller’s scores for the prior 12 months. If during that rolling 12-month period an eBay seller (a) receives at least three low scores in a category, and (b) the percentage of low scores in that category (calculated by taking the total number of low scores in that category and dividing by the total number of transactions in the year-long evaluation period) is greater than a specified percentage, then the seller will be considered below standard and eBay may take action on the account. The victim’s mother testified that in March 2014, eBay closed her online store because of the number of dings she had received.

eBay records reflect the following customer feedback regarding the parents’ business from January 2013 to January 2014. For transactions *prior* to September 2013, the date on which the parents learned the victim had been molested, the business received two low scores for “Item As Described,” three low scores for “Communication,” and three low scores for “Shipping Time.” These eight low scores arose out of four transactions that occurred in a roughly four-month period between early February and early June 2013.

For transactions *after* September 2013, the business received two low scores for “Item As Described,” two low scores for “Communication,” and three low scores for “Shipping Time.” These scores arose out of four transactions that occurred in a roughly

one-month period between mid-November and mid-December 2013. The customer comments associated with these four transactions stated: (1) “Thank you for the item! Too bad the USPS stinks. Not your fault. Would buy again,” (2) “Band isn’t 3.5mm yellowish for a FB, so I gave it to my dater [sic] who likes it,” (3) “Ring arrived half size smaller than ordered, had to take it to jewler [sic] to resize,” and (4) “BAD SELLER! Sent defective poor quality items and I had to pay to return them!”

Based on the number and percentage of low scores in the “Item as Described” category, eBay considered the business below standard during a January 2014 evaluation and again in a February 2014 evaluation. After the January 2014 evaluation, eBay notified the business of its status and how it could improve. After the February 2014 evaluation, as the business had fallen below standard two months in a row, eBay placed a “Selling Restriction” on the account in early March 2014. The victim’s mother attempted to appeal the closure with eBay, but eBay indicated the decision was final.

The family’s income from online sales for the business went to zero after the online store was shut down by eBay. The family paid their rent and some bills but otherwise used their credit cards for living expenses. Between 2013 and 2014, their credit card debt increased to approximately \$40,000.

The online business had averaged \$22,000 to \$25,000 per month in sales, and the store averaged \$5,000 to \$8,000 per month. According to the parents’ 2013 tax return, gross sales for the business in store and online was \$355,948. The business income or profit for 2013 was \$26,860.

In 2014, the year that eBay closed the victim’s mother’s account, the parents’ tax return reflected gross sales of \$243,559, and a business profit of “[n]egative \$60,063.” The victim’s mother testified that she did not observe anything about the customer market that changed between 2013 and 2014 that would have affected the business. She stated that “the economy was going up.”

In May 2014, the victim's family reported the molestation to the police. They did not report it sooner because the minor and his parents "were family" and the victim's family thought "something better" could happen, such as the minor confessing to a priest. In May, however, after the victim's father and mother had been arguing a lot, the father "blew up." He was "really mad" and wanted "justice" for his daughter.

The negative effect of the molestation on the mother's and the father's mental health and behavior had worsened over time. In the fall of 2014, the victim's family sought counseling.

According to an August 2015 letter from the therapist for the victim's family, the family had been in therapy since October 2014. On intake, the diagnoses for the mother included generalized anxiety disorder and for the father included post-traumatic stress disorder (PTSD). The therapist described the psychological problems the couple experienced as a result of the victim's molestation and the effect on the marriage. The "couple presented with severe anxiety, pain, confusion, anger, depression, and feelings of betrayal. This crippling stress . . . led to severe family and marital conflict. Because both [parents'] functioning was compromised, . . . it was difficult for them to provide the assistance both [the victim and her sibling] were needing because of the molest."

The therapist explained that the father had "difficulty handling" his feelings and "became disorganized and confused, being unable to work and carry out family business. He did not understand that he was dealing with PTSD from [the victim's] molest and the betrayal of the family. His emotions were controlling him. [His] undiagnosed PTSD almost destroyed his family, his marriage, the family business, and his life. . . . [The victim's] molest was especially traumatic for [him] because he had always been very committed to protecting his children and to keeping them safe." The therapist indicated that the mother was not only dealing with her emotions from the victim's molestation, but that the father's "undiagnosed PTSD, his inability to help with the family business, and the resulting conflicts added pressure and misunderstandings creating a very stressful life

for [the mother].” The therapist indicated that some of the family’s therapy had been paid for by the California Victim Compensation Board, and that a balance was still due.

At the restitution hearing in August 2016, the mother testified that it was only “recently,” after a year and a half of therapy for the family, that the family had started to heal. Since receiving treatment, the mother’s mental health improved. She testified that treatment for both parents was “coming to an end.” She had resumed a more active work schedule and since the middle of 2015, she had been working about 50 hours per week in the store. The father’s mental health also improved, and he worked about 40 hours per week. In 2015, the family was able to pay off some of their credit card debt.

The prosecutor contended that the victim’s parents suffered psychological harm because of the minor’s conduct against their daughter. The prosecutor argued that this led to the closure of the online business, which resulted in the family losing more than \$80,000 in income between 2013 and 2014.

The minor contended that the victim’s parents were not entitled to restitution for the loss of business income. He argued that the parents’ eBay account was closed for reasons unconnected to the parents’ emotional state. Specifically, the account was closed because the parents’ business fell below standard in customer satisfaction regarding the quality of the product sold, not because of customer feedback regarding communication or shipping time. He argued that his conduct was not a factor in the business selling poor quality products.

2. The juvenile court’s order

On August 22, 2017, the juvenile court ordered the minor to pay (a) \$22,500 in restitution for the victim’s parents’ lost income, and (b) \$12,662 to the California Victim Compensation Board for counseling expenses for the victim and her family. The minor’s parents were ordered jointly and severally liable. The court dismissed probation.

In a written “statement of decision,” the juvenile court explained the basis for its restitution order. Regarding counseling expenses, the court found that “there was more

than sufficient testimony to support the therapy charges requested by [the California Victim Compensation Board] for counseling.”

Regarding the ordered restitution for lost income, the juvenile court observed that eBay had “cut off” the account after the business received low scores in eight transactions, four of which occurred before the parents learned about the molestation and four of which occurred afterward. The court stated: “[I]t seems clear to the Court that there were a constellation of failures that led to the [customer] complaints after the family knew of the molestation. Those complaints fell in all categories, and the Court cannot find that the molestation was an insignificant factor in the loss of the eBay income stream.” The court found the victim’s mother’s “testimony concerning the emotional impact on the family compelling and credible.” The parents’ work hours “dropped,” and the father “started to drink, smoke, displayed some symptoms consistent with PTSD, and was generally depressed.” The court determined that “the key financial harm to the victim’s family resulted from the loss of the eBay sales platform. Once they received their seventh or eighth ‘ding’ and eBay cut them off, that income stream ceased.” The court found that “[t]here was no challenge to [the mother’s] testimony that the family had to survive on credit card debt for the better part of 2014.” The court observed that 2015 was a “good year” for the family as the business was being rebuilt, their work hours had increased, and they were nearing the end of their treatment in therapy.

The juvenile court reasoned that, because there were customer complaints in four transactions before, and four transactions after, the parents learned about the molestation, “it was impossible to find that all damages were caused only by [the minor’s] actions.” However, “[w]hile it is clear that eBay had ‘dinged’ the family business four times prior to their knowledge of the molestation, it is equally clear from the evidence that the emotional impact of their child’s molestation contributed to the three or four additional ‘dings’ and, in the Court’s view, was a substantial factor in the family[] being cut off by eBay.”

The juvenile court calculated the amount of the restitution as follows. The court explained that the victim's family lost income for 10 months from February through December 2014, the year that eBay prevented further online selling by the parents' business. There was no evidence of income loss for 2015 or thereafter. In determining the "base income year," the court used the parents' 2013 tax return, which reflected a net profit of \$26,860 from the business, plus wages of \$27,133. These amounts totaled \$53,993, or approximately \$4,500 per month. Ten months of lost income in 2014, at \$4,500 per month, equaled \$45,000. The court divided that amount in half to reach the ordered restitution amount of \$22,500 for lost income.

III. DISCUSSION

On appeal, the minor challenges the restitution order for \$22,500 regarding the victim's parents' lost income. First, he contends that the restitution was not legally authorized. According to the minor, restitution may be awarded for lost income due to time spent as a witness or assisting the prosecution, but not for income lost due to depression over a molestation. Second, the minor contends that the evidence did not support a finding that his conduct was a substantial factor in the parents' losses.

We set forth general principles regarding restitution before considering each of the minor's contentions.

A. General Principles Regarding Restitution

The California Constitution provides that crime victims have a right to receive "restitution from the persons convicted of the crimes causing the losses they suffer." (Cal. Const., art I, § 28, subd. (b)(13)(A); see *id.*, subd. (e) [a victim includes a person who suffers harm as a result of a "delinquent act"].) This constitutional mandate is implemented by Penal Code section 1202.4, which requires full victim restitution in criminal cases. (§ 1202.4, subd. (f); *Luis M. v. Superior Court* (2014) 59 Cal.4th 300, 304 (*Luis M.*).) Section 730.6 "provide[s] 'parallel restitutionary requirements for juvenile offenders.' [Citation.]" (*Luis M.*, *supra*, at p. 304, fn. omitted.)

Relevant here, section 730.6 authorizes restitution to a victim “who incurs an economic loss as a result of the minor’s conduct.” (§ 730.6, subd. (a)(1).) The restitution order must “be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor’s conduct . . . , including all of the following: [¶] . . . [¶] (C) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor’s . . . parents . . . while caring for the injured minor. . . . [¶] (D) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor’s . . . parents . . . due to time spent as a witness or in assisting the police or prosecution.” (*Id.*, subd. (h)(1)(C), (D).) For purposes of section 730.6, a “victim” includes a parent “who has sustained economic loss as the result of a crime.” (*Id.*, subd. (j)(4)(A).)

“An order of direct victim restitution acts to make the victim whole, rehabilitate the minor, and deter future delinquent behavior [citations], . . . ‘ “In keeping with the [voters]’ ‘unequivocal intention’ that victim restitution be made, statutory provisions implementing the constitutional directive have been broadly and liberally construed.” ’ [Citations.]” (*Luis M.*, *supra*, 59 Cal.4th at p. 305.)

A victim restitution order is reviewed for abuse of discretion. (*Luis M.*, *supra*, 59 Cal.4th at p. 305.) The abuse of discretion standard “ ‘asks in substance whether the ruling in question “falls outside the bounds of reason” under the applicable law and the relevant facts [citations].’ [Citation.]” (*People v. Giordano* (2007) 42 Cal.4th 644, 663 (*Giordano*).) “No court has discretion to make an order not authorized by law, or to find facts for which there is not substantial evidence.” (*In re K.F.* (2009) 173 Cal.App.4th 655, 661.) Regarding factual findings, “the ‘ “power of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted,” to support the trial court’s findings.’ [Citations.] . . . We do not reweigh or reinterpret the evidence; rather, we determine whether there is sufficient evidence to support the inference drawn by the trier of fact. [Citations.]” (*People v.*

Baker (2005) 126 Cal.App.4th 463, 468-469.) Further, under the abuse of discretion standard, “while a trial court has broad discretion to choose a method for calculating the amount of restitution, it must employ a method that is rationally designed to determine the . . . victim’s economic loss.” (*Giordano, supra*, at pp. 663-664.)

B. Restitution for Lost Income

The minor contends that restitution for the victim’s parents’ lost income due to their “depression over the molestation” was legally unauthorized. He argues that restitution for the parents’ economic loss was limited to that set forth in section 730.6, subdivision (h)(1)(D), which authorizes restitution for wages or profits lost “due to time spent as a witness or in assisting the police or prosecution.”

We are not persuaded by the minor’s contention. Section 730.6 broadly authorizes restitution to a victim “who incurs an *economic loss* as a *result of* the minor’s conduct.” (*Id.*, subd. (a)(1), italics added.) A victim under section 730.6 includes a parent “who has sustained *economic loss* as the *result of* a crime.” (*Id.*, subd. (j)(4)(A), italics added.) Subdivision (h)(1) of section 730.6 requires that the restitution order “fully reimburse the victim . . . for *all determined economic losses* incurred as the *result of* the minor’s conduct.” This is consistent with the California Constitution, which gives crime victims the right to receive “restitution from the persons convicted of the crimes *causing the losses* they suffer.” (Cal. Const., art I, § 28, subd. (b)(13)(A), italics added.) “Although subdivision (h)[(1)] of section 730.6 lists certain categories of economic loss as providing an appropriate basis for a restitution order, it is not intended to be an inclusive list.” (*In re M.W.* (2008) 169 Cal.App.4th 1, 5.) The use of the word “including” in section 730.6, subdivision (h)(1) “before the list of kinds of losses indicates the Legislature’s intention not to limit the court to the kinds of losses specified, but to allow the court broad discretion to determine the victim’s economic loss.” (*In re Johnny M.* (2002) 100 Cal.App.4th 1128, 1135; see *People v. Moore* (2009) 177 Cal.App.4th 1229, 1231, 1232-1233 [restitution properly ordered under Penal Code § 1202.4 for wages lost

by victim who voluntarily went to court to watch proceedings].) In sum, although section 730.6, subdivision (h)(1)(D) authorizes restitution for wages or profits lost “due to time spent as a witness or in assisting the police or prosecution,” the existence of this provision does not preclude a juvenile court from also ordering restitution, as in this case, for lost income where that economic loss is the “result of” the minor’s conduct (*id.*, subds. (a)(1), (h)(1) & (j)(4)(A)).

Moreover, the juvenile court’s restitution order in this case is supported by the California Supreme Court’s decision in *People v. Brasure* (2008) 42 Cal.4th 1037 (*Brasure*). In *Brasure*, the defendant was convicted of the murder of the victim. (*Id.* at p. 1041.) The trial court ordered restitution to the victim’s mother, including \$100,000 for the mother’s lost wages. (*Id.* at p. 1074.) The mother reported that she had “lost approximately \$100,000 in wages because she ‘ha[d] been unable to work for the past two years’ due to the trauma of her son’s murder.” (*Ibid.*) The California Supreme Court rejected the defendant’s contention that the restitution order was not authorized under Penal Code section 1202.4, subdivision (f). (*Brasure, supra*, at p. 1074.) The court determined that the restitution order for the mother’s loss of income, which was caused by the “psychological trauma” of the defendant’s crime, was proper under the restitution statute. (*Id.* at p. 1075.)

We reject the minor’s contention that “permitting the [parents] to receive restitution for economic losses not related to attending court or assisting the prosecution . . . would allow victims to be opportunistic.” The parents in this case were themselves the victims of the lewd conduct committed by the minor. Ample evidence reflects the parents’ emotional suffering due to the minor’s conduct, which included physical contact with their young child. The juvenile court expressly found the mother’s “testimony concerning the emotional impact on the family compelling and credible.” On this record, we are not persuaded that restitution in this case impermissibly allows the parents to be opportunistic. (See *People v. Crisler* (2008) 165 Cal.App.4th 1503, 1509

[determining that a murder victim's parents were entitled to restitution under Penal Code § 1202.4 as victims who had "suffered the trauma inherent in the murder of their son"].)

We conclude that the juvenile court was authorized under section 730.6 to order restitution for the parents' income loss, which resulted from the psychological impact of the minor committing lewd conduct on their young child.

C. Substantial Factor

The minor next contends that his conduct "was not a substantial factor in causing the [victim's parents'] loss of their eBay business." He argues that more than half of the 15 negative reviews in the eBay evaluation period occurred prior to the parents' discovery of the molestation, and that "nothing changed in the [parents'] management of their online business after they learned of the abuse." The minor further argues that the parents' eBay store was closed because they fell below standard in one category of service, which was related to the quality of merchandise. He contends that "[t]here was no evidence supporting a finding that [his] conduct in some way affected the quality of the items sold by the [parents]."

Section 730.6 authorizes restitution "for all determined economic losses incurred as the result of the minor's conduct." (§ 730.6, subd. (h)(1); see also *id.*, subds. (a)(1) & (j)(4).) An economic loss occurs "as the result of" (*id.*, subd. (h)(1)) the minor's conduct when the minor's conduct is a "substantial factor" in causing the victim's loss (*In re A.M.* (2009) 173 Cal.App.4th 668, 674; see also *id.* at p. 673; *People v. Holmberg* (2011) 195 Cal.App.4th 1310, 1320-1322 (*Holmberg*) [determining that a restitution award under Penal Code § 1202.4 was proper where the defendant's conduct was a substantial factor in causing harm to the victims]). " 'A substantial factor is more than a trivial or remote factor. However, it does not have to be the only factor that causes the injury.' " (*In re A.M.*, *supra*, at p. 673.)

The minor contends that the victim's parents would have lost their online business even if his conduct had never come to light. The minor's "argument, however, ignores

the fact that there can be more than one cause of injury and that multiple causes can combine to cause harm,” making restitution appropriate when the minor’s conduct is a substantial factor in causing the damages. (*Holmberg, supra*, 195 Cal.App.4th at p. 1322.)

In this case, the juvenile court found the victim’s mother’s “testimony concerning the emotional impact on the family compelling and credible.” The court also recognized that during the one-year eBay evaluation period, roughly half of the low scores occurred before the parents learned about the minor’s conduct, and roughly half occurred afterward. The court found it “clear from the evidence that the emotional impact of [the] child’s molestation contributed” to those later low scores and “was a substantial factor in the family[] being cut off by eBay.” The court determined that “there were a constellation of failures that led to the [customer] complaints after the family knew of the molestation. Those complaints fell in all categories, and . . . the molestation was [not] an insignificant factor in the loss of the eBay income stream.” (See *In re A.M., supra*, 173 Cal.App.4th at p. 673.)

Substantial evidence supports the trial court’s findings. The victim’s mother testified how “devastated” she was after learning that a family member had molested her daughter. Both the mother and the father experienced psychological problems, including depression, PTSD, and/or anxiety, which compromised the parents’ ability to function. The parents’ personalities changed and they “shut down.” Both parents’ work hours dropped by roughly 50 percent. The mother was depressed and couldn’t see the “point” of working, and the father didn’t appear to care about work. The effect on the business was a decrease in customer service and sales. As the mother testified, the parents were “not mentally capable” of running the business to ensure that customers were satisfied, which “affected [their] business greatly.” For example, the mother was not promptly responding, and the father was not responding at all, to customer inquiries, which would affect sales. On this record, substantial evidence supports the trial court’s findings that

“the emotional impact of [the] child’s molestation contributed” to the low customer scores that the business subsequently received and “was a substantial factor in the family[] being cut off by eBay.”

We understand the minor to contend that the closure of the eBay account was due to the poor quality of the merchandise, not because of any emotional fallout suffered by the parents. We are not persuaded by his argument.

The record reflects that the parents’ eBay account was closed based on customer feedback for (a) two transactions in February and March 2013, before the parents learned about the minor’s conduct, and (b) two transactions in November and December 2013, after the parents learned about the minor’s conduct. Regarding the latter two transactions, the record reflects the following. For a November 21, 2013 transaction, a customer gave a low score for the category “Item As Described,” and wrote the following comment: “Band isn’t 3.5mm yellowish for a FB, so I gave it to my doter [*sic*] who likes it.” For a December 14, 2013 transaction, a customer gave low scores for the categories (1) “Item As Described,” (2) “Communication,” and (3) “Shipping Time,” and wrote the following comment: “BAD SELLER! Sent defective poor quality items and I had to pay to return them!”

As the minor observes, these two written comments from November 21 and December 14, 2013 pertain to the characteristics of the merchandise. This does not mean, however, that the parents’ emotional state had no relationship to the customers’ complaints. The mother testified that, before an item is mailed to a customer, the item is checked to make sure it is the correct size, stone, and metal, and that it meets the business’s jewelry standard. The mother also testified about the importance of promptly responding to customer inquiries, which could arise even after an item is purchased as a customer has 14 days to return the item. The mother testified, however, that after she and the father learned about the minor’s conduct with their young daughter, the parents were not regularly responding to customer inquiries in a timely fashion, they were “not

mentally capable” of running the business to make sure customers were satisfied, and they otherwise didn’t care or see the “point” of the business any more. Substantial evidence supports the juvenile court’s findings that “a constellation of failures . . . led to the [customer] complaints after the family knew of the molestation,” and that “the molestation was [not] an insignificant factor in the loss of the eBay income stream.” We conclude that the court did not abuse its discretion in ordering restitution for the victim’s family’s lost income.

IV. DISPOSITION

The restitution order of August 22, 2017, is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

GREENWOOD, P.J.

DANNER, J.

People v. J.T.
H045204